

REMARKS

Entry of the foregoing and favourable reconsideration of the subject application, as amended, pursuant to and consistent with 37 C.F.R. § 1.112, and in light of the remarks which follow, are respectfully requested.

By the present amendment, Claims 17-19 and 46 have been cancelled, and Claims 3, 4 and 47-50 have been amended. In particular, amendments have been made to set forth proper identification of sequences, correct claim dependency and address a rejection under § 101. Applicants submit that no new matter has been added via this amendment.

Claims 17-19 and 46 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement.

Claims 17-19 and 46 have been cancelled. Accordingly, the rejection is now rendered moot. However, Applicants submit that the Examiner is incorrect in asserting that a higher standard of availability is required for the plasmids specified in Claims 17-19 and 46. Applicants believe that the enablement of such plasmids is satisfied, as shown in the teachings in the prior art as well the description in the present specification. Applicants have cancelled Claims 17-19 and 46 merely to expedite prosecution, especially in view of the Examiner's comments in the January 18, 2005 telephone conference with Mr. George Ng, in which she indicated that the broader claims from which Claims 17-19 and 46 depend are enabled.

In view of the foregoing, withdrawal of the rejection is respectfully requested.

Claims 47, 49 and 50 have been rejected under 35 U.S.C. § 101, as encompassing non-statutory subject matter. Claim 48 has been objected to for being dependent upon Claim 47.

The Examiner indicated that unless the term "isolated" is added to these claims, they read upon cells in an intact human.

Claims 47-50 have been amended to recite an "isolated" recombinant host cell in accordance with the Examiner's suggestion. Applicants submit that the amendatory language simply serves to exclude intact humans, so as to render the claims in compliance with §101. Thus, the claims embrace the presence of the recombinant cells in non-human environments such as culture medium and other compositions.

Therefore, in view of the above, withdrawal of the § 101 rejection and related objection is respectfully requested.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: January 24, 2005

Respectfully submitted,

By George K. Lerner
George K. Lerner
Registration No.: 54,334
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

538225_1.DOC